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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,039	04/13/2005	Erich Fuderer	566/42762	4659

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EXAMINER

NGUYEN, XUAN LAN T

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 12/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/510,039

Applicant(s)

FUDERER ET AL.

Examiner

Lan Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/13/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the gearings and slip clutch of the emergency release device and the gearings and clutch of the wear adjuster as described in the specification. Details drawings of these components are needed; since presently, the details are small and hard to distinguish from surrounding components. Because of the deficiencies, it is hard to understand the detailed structures of the instant invention as described and claimed. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are

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not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are further objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed features in claims 8 and 9 must be clearly shown or the feature(s) canceled from the claim(s). No new matter should be entered. Note the objection above. The elements in the emergency release device and the wear adjuster are small and hard to distinguish.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 8 and 9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Note the drawing objections above. The claimed subject matter in claims 8 and 9 was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 8 and 9 are not further treated.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In general, the claims are confusing and unclear. The followings are examples.
Applicant is urged to review and correct the deficiencies in order to particularly

pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- It is suggested that terms such as “first and second” be used instead of “one and the other one” in order to clarify the claimed elements.
- In claim 2, “ the screw connection parts” lacks antecedent basis. “This threaded spindle” should be --said threaded spindle--.
- Claim 6 is confusing and contradictory since an “unlockable free wheel” is claimed to permit rotation and to block rotation at the same time. Furthermore, the passage starts with “if” is considered to be not positively claiming and is indefinite. Since claim 6 is indefinite that a determination of the claiming subject matter is not possible, claim 6 and its dependent claims are not further treated in the prior art rejection.
- Claim 10 repeats part of claim 2 and should be deleted.
- Claim 14 is also confusing. Claiming features “a clutch in front of the other electric drive unit of the other screw connection part, by means of the clutch,” does not make sense. Furthermore, the passage starts with “otherwise” is considered to be not positively claiming and is indefinite. Since claim 14 is indefinite that a determination of the claiming subject matter is not possible, claim 14 and its dependent claims are not further treated in the prior art rejection.
- Claim 18, the phrase “a gearwheel meshing with a gearing-output-side gearwheel of a gearing” is confusing.

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- Claim 20, "in which the other screw connection part is crewed into the other one screw connection part to the stop, or vice-versa" is confusing.
- Claim 22 is confusing.
- Applicant is urged to correct indefinite phrases such as "as well as, if, otherwise, vice-versa".

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Kerscher et al. (USP 4,234,062).

Re: claim 23, Kerscher et al. shows a brake application system for vehicles, particularly rail vehicles, as in the present invention, including: a combined device 39 for an emergency release of the brake and for an auxiliary release of the brake; and the combined device is electrically actuated by a common drive unit, as stated in column 3, lines 49-51.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerscher et al. (USP 4,234,062) in view of Wolfsteiner et al. (USP 6,722,477) and further in view of Fuderer et al. (EP 699846 A2).

Kescher's brake application system, as rejected in claim 23, shows a slack adjuster 29 but is silent of the internal structure of the slack adjust 29. Kerscher also lacks the integration of the emergency release device in the slack adjuster as required by claim 2. Wolfsteiner et al. teach the concept of integrating an emergency release in a slack adjuster 128 in column 5, lines 43-45 as a desirable design in a compact brake system. Fuderer et al. teach the internal structure of a well-known plunger rod adjuster as claimed in claims 2-5. The adjuster comprises a threaded spindle 33 for a screw connection with a nut 34 and a first free wheel 38 and a second free wheel 43 to be actuated by a rotary drive as stated in the Abstract. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kerscher brake application system to combine the teaching of Wolfsteiner to integrate the emergency release in the slack adjuster to provide a compact design as taught by Wolfsteiner while using a well known plunger rod adjuster of the structures as taught by Fuderer since Fuderer adjuster is well known and readily available for use in a brake system.

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Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wosegien, Berra et al., Grundwurmer et al., Engle and Wickham et al. show various other brake systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is (571) 272-7121. The examiner can normally be reached on Monday through Friday, 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on (571) 272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 12/6/06

**XUAN LAN NGUYEN
PRIMARY EXAMINER**